

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

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IN RE: ZIMMER NEXGEN KNEE  
IMPLANT PRODUCTS LIABILITY  
LITIGATION

MDL No. 2272

**SHORT FORM COMPLAINT  
FOR ZIMMER NEXGEN KNEE  
IMPLANT PRODUCTS LIABILITY  
LITIGATION**

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This applies to:

**JURY TRIAL DEMAND**

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Plaintiffs,

vs.

Zimmer, Inc., Zimmer Holdings, Inc.,  
Zimmer Orthopaedic Surgical Products, Inc.;  
and (if necessary): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendants.  
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**PLAINTIFFS' PROPOSED:**

**ABBREVIATED SHORT FORM COMPLAINT FOR ZIMMER  
NEXGEN KNEE IMPLANT PRODUCTS LIABILITY LITIGATION**

Plaintiffs incorporate by reference Plaintiffs' Master Long Form Complaint in In Re: Zimmer NexGen Knee Implant Products Liability Litigation, MDL 2272, filed as of January 12, 2012, as Document Number \_\_\_\_\_. Pursuant to an Order by the Honorable Rebecca Pallmeyer, the following Short Form Complaint is utilized in this action.

Plaintiff selects and indicates by checking off the appropriate spaces, those products and claims that are specific to his or her case. Where certain claims require specific pleadings or case specific facts and individual information, plaintiff shall add and include them herein.

1. Plaintiffs, \_\_\_\_\_ and \_\_\_\_\_, states and brings this civil action before the Court for the United States District Court for the Northern District of Illinois as a related action in the matter entitled IN RE: ZIMMER NEXGEN KNEE IMPLANT PRODUCTS LIABILITY LITIGATION, MDL No. 2272. Plaintiff is filing this short form complaint as permitted and approved by Order of this Court, and adopts and incorporates by reference those allegations in the Plaintiffs' Master Long Form Complaint and any and all amendments thereto.

**ALLEGATIONS AS TO VENUE**

2. Venue of this case is appropriate in the \_\_\_\_\_ District Court of State of \_\_\_\_\_. Plaintiff states that but for the Order permitting direct filing into the Northern District of Illinois pursuant to Case Management Order No. \_\_, Plaintiff would have filed in the \_\_\_\_\_ District Court of the State of \_\_\_\_\_. Therefore, Plaintiff consents that at the time of transfer of this action back to the trial court for further proceedings, that this case be transferred to the above referenced District Court.

3. Plaintiff \_\_\_\_\_ is a resident and citizen of [state] \_\_\_\_\_ and claims damages as set forth below.

4. Plaintiff's Spouse \_\_\_\_\_, is a resident and citizen of [state] \_\_\_\_\_, and claims damages as a result of loss of consortium. *[Cross out Spousal Claim if Not Applicable]*

5. Plaintiff was born on [date]\_\_\_\_\_.

6. Plaintiff is filing this case in a representative capacity as the [administrator/personal representative/executor/other] \_\_\_\_\_ of the [Estate of] \_\_\_\_\_ . *[Cross out if Not Applicable]* A copy of the Letters of Administration or other authority to proceed on behalf of the Estate, where required, is annexed hereto if such letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent.

**ALLEGATIONS AS TO INJURIES**

7. Plaintiff was implanted with a Zimmer NexGen® Knee device(s) on his/her \_\_\_\_\_ knee on or about [date] \_\_\_\_\_ at \_\_\_\_\_ hospital, by Dr. [implanting surgeon] \_\_\_\_\_.

8. On or about [date] \_\_\_\_\_, Plaintiff suffered personal and economic injuries as a result of the implantation of the following Zimmer NexGen® Knee device(s):

_____	Zimmer NexGen LPS-Flex
_____	Zimmer NexGen CR-Flex
_____	Zimmer NexGen GSF LPS-Flex
_____	Zimmer NexGen GSF CR-Flex
_____	Zimmer NexGen MIS Tibia
_____	Other Zimmer Device(s) (Attach separately allegations)

9. Plaintiff underwent revision surgery with respect to the defective Zimmer NexGen® Knee device(s) on [date] \_\_\_\_\_, at [hospital] \_\_\_\_\_ by Dr. \_\_\_\_\_ **or** Plaintiff will be undergoing revision surgery with respect to the defective Zimmer NexGen®

Knee device(s) on or about [date] \_\_\_\_\_, **or** Plaintiff has not yet scheduled a revision surgery with respect to the defective Zimmer NexGen® Knee device(s).

10. Plaintiff has suffered injuries as a result of implantation and revision/explantation of the Zimmer NexGen® Knee device(s) manufactured by defendants as described in the forthcoming Plaintiff's Fact Sheet and other responsive documents in discovery provided to the defendants and/or obtained by the defendants through Plaintiff's authorization and are incorporated by reference herein.

11. At the time of implantation with the Zimmer NexGen® Knee device(s), the plaintiff resided at [address] \_\_\_\_\_.

12. The defendants by their actions or inactions, proximately caused Plaintiff's injuries.

13. Plaintiff claims damages as a result of:

- \_\_\_ injury to herself/himself
- \_\_\_ injury to the person represented
- \_\_\_ wrongful death
- \_\_\_ survivorship action
- \_\_\_ economic loss
- \_\_\_ loss of services
- \_\_\_ loss of consortium

14. Neither Plaintiffs nor their physicians, through the exercise of reasonable

diligence, could have detected the defective nature of the Zimmer NexGen® Knee device any earlier than the evidence of loosening and/or other indication for planned revision of the defective device (s), or as the facts dictate and produced in discovery.

15. As a result of the injuries Plaintiff sustained, he/she is entitled to recovery compensatory damages for pain and suffering and emotional distress and for economic loss as well as punitive damages.

16. Plaintiff's Zimmer NexGen® Flex Knee device bears catalog number \_\_\_\_\_ and lot number \_\_\_\_\_.

If unknown, \_\_\_\_\_ to be provided at or before service of plaintiff's fact sheet.

**ALLEGATIONS AS TO DEFENDANTS**  
**SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

17. The following claims and allegation are asserted by Plaintiffs and are herein adopted by reference:

**COUNT I – STRICT LIABILITY DESIGN DEFECT**

\_\_\_\_\_ COUNT I (a) ZIMMER LPS-FLEX ;

\_\_\_\_\_ COUNT I (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT I (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT I (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT I (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Strict Liability – Design Defect: [ATTACH]

**COUNT II – STRICT LIABILITY FAILURE TO WARN**

\_\_\_\_\_ COUNT II (a) ZIMMER LPS-FLEX ;

\_\_\_\_\_ COUNT II (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT II (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT II (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT II (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Strict Liability – Failure to Warn: [ATTACH]

COUNT III – STRICT LIABILITY MANUFACTURING DEFECT

\_\_\_\_\_ COUNT III (a) ZIMMER LPS-FLEX;

\_\_\_\_\_ COUNT III (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT III (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT III (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT III (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Strict Liability – Manufacturing Defect: [ATTACH]

COUNT IV - NEGLIGENCE

\_\_\_\_\_ COUNT IV (a) ZIMMER LPS-FLEX;

\_\_\_\_\_ COUNT IV (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT IV (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT IV (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT IV (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Strict Liability – Negligence: [ATTACH]

COUNT V – NEGLIGENT MISREPRESENTATION

\_\_\_\_\_ COUNT V (a) ZIMMER LPS-FLEX;

\_\_\_\_\_ COUNT V (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT V (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT V (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT V (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Strict Liability – Negligent Misrepresentation:  
[ATTACH]

COUNT VI – EXPRESS WARRANTY

\_\_\_\_\_ COUNT VI (a) ZIMMER LPS-FLEX;

\_\_\_\_\_ COUNT VI (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT VI (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT VI (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT VI (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Express Warranty: [ATTACH]

COUNT VI – BREACH OF EXPRESS WARRANTY

\_\_\_\_\_ COUNT VI (a) ZIMMER LPS-FLEX;

\_\_\_\_\_ COUNT VI (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT VI (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT VI (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT VI (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Breach of Express Warranty: [ATTACH]

COUNT VII – BREACH OF IMPLIED WARRANTY

\_\_\_\_\_ COUNT VII (a) ZIMMER LPS-FLEX;

\_\_\_\_\_ COUNT VII (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT VII (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT VII (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT VII (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Breach of Implied Warranty: [ATTACH]

COUNT VIII – REDHIBITION

\_\_\_\_\_ COUNT VIII (a) ZIMMER LPS-FLEX;

\_\_\_\_\_ COUNT VIII (b) ZIMMER CR-FLEX;

\_\_\_\_\_ COUNT VIII (c) ZIMMER GSF LPS-FLEX;

\_\_\_\_\_ COUNT VIII (d) ZIMMER GSF CR-FLEX;

\_\_\_\_\_ COUNT VIII (e) ZIMMER MIS TIBIAL COMPONENTS;

\_\_\_\_\_ Other Counts for Redhibition: [ATTACH]

\_\_\_\_\_ COUNT IX – LOSS OF CONSORTIUM

\_\_\_\_\_ COUNT X – WRONGFUL DEATH

\_\_\_\_\_ COUNT XI – SURVIVAL ACTION

\_\_\_\_\_ COUNT XII – VIOLATION OF CONSUMER PROTECTION  
STATUTES:

[State] \_\_\_\_\_ and applicable statute: \_\_\_\_\_

\_\_\_\_\_ COUNTY XIII – UNJUST ENRICHMENT

\_\_\_\_\_ COUNTY XIV – PUNITIVE DAMAGES

PLAINTIFF(S) ASSERTS THE FOLLOWING ADDITIONAL CAUSES OF ACTION  
[ATTACH ADDITIONAL PAGES AS NECESSARY]: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. For compensatory damages requested and according to proof;
2. For punitive or exemplary damages against Defendants;
3. For all applicable statutory damages of the state whose laws will govern this action;
4. For an award of attorney's fees and costs;
5. For prejudgment interest and the costs of suit; and
6. For such other and further relief as this Court may deem just and proper;

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury as to all claims in this action.

Dated: January 12, 2012

Respectfully submitted,

**POGUST BRASLOW & MILLROOD, LLC**

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***Proposed Plaintiffs' Liaison Counsel***

**CERTIFICATE OF SERVICE**

I certify that on January 12, 2012, a copy of the foregoing *Plaintiffs' Proposed: Abbreviated Short Form Complaint For Zimmer Nexgen Knee Implant Products Liability Litigation* was filed electronically by using the CM/ECF system, which will deliver the document to all counsel of record.

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